

**MINUTES
HEARING OFFICER
March 03, 2015**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Karen Stovall, Senior Planner
Brandy Zedlar, Code Inspector
Michael Glab, Code Inspector
Andre Lara-Reyes, Code Inspector
Steve Nagy, Administrative Assistant II

Number of Interested Citizens Present: 10

Meeting convened at 1:35 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by MARCH 17, 2015 at 3:00 PM, to the Community Development Department.

Before hearing the cases, Ms. MacDonald noted that item #3 had been brought into compliance, items #6, #7, and #8 will be continued to the March 17, 2015 Hearing, and item #13 had been withdrawn. The Hearing Officer also noted that she would hear items #11 and #12 after the abatement cases.

- 1. Ms. MacDonald noted that the Hearing Officer Minutes for February 17, 2015 had been reviewed, and approved.

- 2. Request approval to abate public nuisance items at the **FERGUSON PROPERTY (PL150008)** located at 1213 WEST HERMOSA LANE. The applicant is the City of Tempe.

Brandy Zedlar requested approval of a 180 day open abatement of the property located at 1213 West Hermosa Lane. Notices have been sent to the owner of the property with no response. The owner is believed to be and unable to maintain the property, and there has been no public comment on the case.

Ms. MacDonald stated she was going to approve the property abatement.

DECISION:

Ms. MacDonald approved abatement proceedings for PL150008

4. Request approval to abate public nuisance items at the **MCCULLOUGH PROPERTY (PL150022)** located at 2348 PEBBLE BEACH DRIVE. The applicant is the City of Tempe.

Mike Glab requested approval of a 180 day open abatement of the property located at 2348 Pebble Beach Drive. Notices have been sent to the owner of the property with no response. There has been no public comment on the case.

Ms. MacDonald stated she was going to approve the property abatement.

DECISION:

Ms. MacDonald approved abatement proceedings for PL150022

5. Request approval to abate public nuisance items at the **HSBC PROPERTY (PL150028)** located at 1501 WEST 7TH PLACE. The applicant is the City of Tempe.

Andre Lara-Reyes requested approval of a 180 day open abatement of the property located at 2348 Pebble Beach Drive. Notices have been sent to the owner of the property with no response. There has been no public comment on the case.

Ms. MacDonald stated she was going to approve the property abatement.

DECISION:

Ms. MacDonald approved abatement proceedings for PL150028

11. Request approval for a Use Permit to allow live entertainment (outdoor) for **SAN PABLO (PL140445)**, located 26 EAST UNIVERSITY DRIVE. The applicant is Scott Price.

Sherri Lesser presented by reviewing the request and case history. She then reviewed the site plan, and added a condition for there to be a review of the Use Permit in 9 months.

Ms. MacDonald called up the applicant, Scott Price, who reviewed the conditions and agreed to them.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:

- No significant increase in vehicular or pedestrian traffic.
- No nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- No contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals, objectives, or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.
- Compatibility with existing surrounding structures and uses.
- Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

DECISION:

Ms. MacDonald approved PL140445/ ZUP15024 subject to the assigned Conditions of Approval:

CONDITIONS OF APPROVAL:

1. The use permit is valid for SAN PABLO RESTAURANT and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. Music generated from the use shall conform to the City of Tempe code requirements for noise control.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. The use permit identified as ZUP 14150 shall pertain to the indoor live entertainment; and ZUP15024 pertains to outdoor live entertainment. .
6. Live entertainment is approved during regular business hours.
7. The applicant or business owner shall contact the City of Tempe Police Department, Crime Prevention Unit to implement/update a Security Plan for the business. Please contact the Crime Prevention Department at 480-858-6027.
8. Shall not operate as a concert venue with advance ticket sales.
9. Applicant to return to the Hearing Officer with in nine months (by 12/3/15) for review of compliance with conditions. The applicant to be noticed per ZDC requirements to allow an opportunity for any public comment on the conduct of the business with outdoor live entertainment.

12. Request approval for a Use Permit to allow live entertainment (outdoor) for **DESERT ROOTS KITCHEN (PL140451)**, located at 414 SOUTH MILL AVENUE. The applicant is Leslie Robin.

Sherri Lesser presented by reviewing the request and case history. She then reviewed the site plan and explained only acoustic or non-amplified entertainment would be allowed.

Ms. MacDonald called up the applicant, Leslie Robin, who agreed with the conditions of approval.

Ms. MacDonald then confirmed with staff that expanding the live entertainment beyond the patio would be considered an intensification of use, and would require another Use Permit. Staff confirmed that the Use Permit would be applied to the entire courtyard, not only the Desert Roots patio.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:

- No significant increase in vehicular or pedestrian traffic.
- No nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- No contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals, objectives, or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.
- Compatibility with existing surrounding structures and uses.
- Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

DECISION:

Ms. MacDonald approved PL140451/ ZUP14159 subject to the assigned Conditions of Approval:

CONDITIONS OF APPROVAL:

1. The use permit is valid for DESERT ROOTS KITCHEN and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. Music generated from the use shall conform to the City of Tempe code requirements for noise control.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. Live entertainment is approved during regular business hours.
6. The applicant or business owner shall contact the City of Tempe Police Department, Crime Prevention Unit to implement/update a Security Plan for the business. Please contact the Crime Prevention Department at 480-858-6027.
7. Shall not operate as a concert venue with advance ticket sales.
8. Applicant to return to the Hearing Officer with in nine months (by 12/3/15) for review of compliance with conditions. The application shall be noticed per ZDC requirements to allow an opportunity for any public comment on the conduct of the business with outdoor live entertainment.

8. Request approval for a Use Permit to allow a new 65-foot high monopole and equipment shelter for **COUNTRYSIDE CELL TOWER (PL140480)**, located at 1730 East Warner Road. The applicant is Eric Hochman, EJ Group, LLC.

Karen Stovall presented by reviewing the location, zoning, and surrounding structures. She then also reviewed the site details, and clarified the pole had been changed to a monopalm, and equipment shelter locations at the request of the Hearing Officer.

Ms. MacDonald then called up the applicant, Eric Hochman, Miami, Florida. Mr. Hochman went on to explain the reasoning behind the location for the monopalm. HE also clarified the distance from the closet resident's property line and presented an image of the viewpoint from the closest property line.

Ms. MacDonald then opened the Hearing to public comment.

1. Mark Horvath, Tempe, expressed opposition to the monopalm as he believed it would be an eyesore.
2. Ronald Sterling, Tempe, expressed opposition as it would be an eyesore, and the applicant's viewpoint imagery was deceptive.
3. Greg Medley, Tempe, expressed opposition because of lack of notification, and incompatibility with surrounding structures.
4. Marty Sterling, Tempe, expressed opposition because monopalm would be an eyesore, and was not compatible with surrounding area.
5. Deborah Hack, Tempe, expressed opposition because of lack of notification, and it would be an eyesore.

6. Bill Kanaugh, Tempe, expressed opposition as it would be an eyesore, it is not needed, and incompatible with surrounding structures.

Ms. MacDonald then closed the Hearing to public comment and called the applicant back up to the podium. Mr. Hochman went over and addressed the list of concerns expressed by the public. He then explained how this specific monopalm would work, and why it needed to be that specific height. Mr. Hochman also explained that he did not think he was being deceitful in presenting his imagery. He continued that the monopalm will support future technologies that will serve the community.

Ms. MacDonald then asked for scale line of sign drawings to be made that give a more accurate portrayal of what the monopalm would look like. She also asked Mr. Hochman to explore different heights. She then went on to explain that she did not believe an easy determination could be made on this case, and would like to see more options explored.

Ms. MacDonald then asked for staff clarification on the notification process, which Ms. Stovall presented.

DECISION:

Ms. MacDonald continued PL140480/ ZUP15014 to the March 17, 2015 Hearing.

9. Request approval for a Use Permit to allow a new 65-foot high monopole (monopalm) and equipment shelter for **VERIZON WIRELESS PHO REDONDO (PL140159)**, located at 3320 South Price Road. The applicant is Steve Ciolek, Coal Creek Consulting.

Karen Stovall presented the case by reviewing the location, zoning and surrounding structures. She added that she had received no public opposition to the monopalm.

With no questions of staff, Ms. MacDonald called up the applicant, Steve Ciolek, Scottsdale.

Mr. Ciolek explained that they had looked at other locations in the area, but other options were not compatible. He continued that they would also have ground equipment, with covers painted to match surrounding structures.

Ms. MacDonald reviewed the stipulations, and added that staff needed to update the parking data table.

With no one from the public wishing to speak on the case, Ms. MacDonald noted that this request meets the criteria for a Use Permit:

- No significant increase in vehicular or pedestrian traffic.
- No nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- No contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals, objectives, or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.
- Compatibility with existing surrounding structures and uses.
- Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

DECISION:

Ms. MacDonald approved PL140159/ZUP14054 subject to the following conditions:

1. This Use Permit is valid only after a Building Permit has been obtained, the required inspections have been completed, and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.

2. The Use Permit is valid for the plans as submitted within this application. Minor additions or modifications may be submitted for review during building plan check process.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
4. The monopole (monopalm) shall be no greater than 65'-0" in height to top of structure (fronds).
5. The proposed equipment cabinet shall be constructed of similar material and color to match the existing buildings or shall be fully screened by solid screen walls and gates.
6. A weather resistant emergency contact information sign shall be posted on the site and shall be visible to the public.
7. Correct the parking data table to identify a ratio of 1 parking space per 300 square feet for the 33,831 square-foot area identified as vacant.

10. Request approval for a Use Permit to allow a 60' monopole and equipment for **VERIZON PHO STRAY CAT (PL150037)**, located at 2425 East Unuversity Drive. The applicant is Steve Ciolek, Coal Creek Consulting.

Sherri Lesser presented by reviewing the request, location, and added a stipulation that any complaints from the monopole being added to the site would be addressed. Ms. Lesser added that she had forwarded a letter of opposition to Ms. MacDonald.

With no questions of staff, Ms. MacDonald called up the applicant, Steve Ciolek, Scottsdale.

Mr. Ciolek explained that they had chosen the location to cover a gap in coverage. He then identified other poles in the area, and pointed out that the pole in question was lower than the others in the area.

With no other questions of Mr. Ciolek, Ms. MacDonald opened the hearing to public comment.

1. Charles Huellmantel, Tempe, expressed opposition because the location for the pole would not be compatible to the site or surrounding area as a whole.

Ms. MacDonald asked Mr. Huellmantel where he thought the pole might be located. Mr. Huellmantel replied that he simply did not see a monopole placed along a major arterial street as a good fit.

With no one else from the public wishing to speak, Ms. MacDonald called the applicant back up.

Mr. Ciolek explained the process of looking for other locations, and had come up with this location as their best option. He also stated that he would be willing to explore other design elements.

Ms. MacDonald then called Mr. Huellmantel back to the podium to ask him what he thought a continuance would accomplish. Mt. Huellmantel replied it would allow time for him to discuss other options with the applicant on behalf of his client.

DECISION:

Ms. MacDonald continued PL150037/ ZUP15012 to the March 17, 2015 Hearing.

The next Hearing Officer public hearing will be held on March 17, 2015.

There being no further business the public hearing adjourned at 3:45 PM.

Prepared by: Steve Nagy, Administrative Assistant II
Reviewed by:



Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

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